review of its assessment of the data including its internal peer review process, the Science Advisory Panel (SAP) review, review by a SAP subcommittee, and other Agency review procedures.

IV. Course of Action EPA Is Considering

EPA plans to consider carefully the public comments received on this document before taking any regulatory action on procymidone. As one of its options, EPA is considering proposing an interim tolerance for procymidone in the summer of 1991. At the time, EPA will have completed a review of data submitted with the petition as well as data to be submitted within the next 6 months. Because a permanent tolerance generally is not established before all needed studies have been submitted and reviewed, if a tolerance is proposed at that time it will be time-limited to ensure that all requested data are submitted. Although the FFDCA does not explicitly provide for the use of interim tolerances, EPA believes that that authority is inherent in the greater authority to establish permanent tolerances.

Because of the uncertainties in the risk assessment that result from deficiencies and gaps in the data base, EPA and FDA have decided that it would not be appropriate to establish a specific enforcement level at this time. EPA believes that a proposal for an interim tolerance may be appropriate in the summer of 1991 taking into consideration a number of factors. First, as detailed above, EPA's preliminary review of the data has revealed that procymidone residues in wine appear to pose, at most, negligible health risks to the public. Following this in-depth review of the already- submitted data and the additional information, EPA believes it may be able to confirm its preliminary risk assessment. By the summer of 1991, not only will EPA have had the oppurtonity to complete an in-depth review of the submitted data, but Sumitomo will have had time to provide supplementary information on deficient studies and to repeat some of those studies which cannot be repaired by providing further data to EPA. Second, Sumitomo has verbally agreed to all of EPA's requests concerning provisions of additional data. Finally, the disruption of trade in wine caused by detentions of wine is of sufficient magnitude that some expedition of the tolerance establishment process is warranted. Although the exact extent of the affect on trade is difficult to quantify, whatever effects there are will be felt most strongly by those parties — wine grape growers, wine makers, and wine importers –– least responsible for the absence of a procymidone tolerance.

At the same time, EPA remains troubled at the gaps in the data base due to the submission of inadequate studies. Although certain conclusions can be drawn about the risk from procymidone residues in wine despite the absence of a complete data base, EPA is concerned at the precedent set by disregarding established practices for making science determinations. Nonetheless, EPA recognizes that where confronted with extraordinary circumstances, extraordinary action may be appropriate. Those parties urging extraordinary action on the procymidone tolerance, however, bear the burden of demonstrating to EPA that further steps should be taken to expedite the tolerance in this instance.

One additional issue which may be raised by establishing a legal limit under the FFDCA for procymidone residues is whether such a limit would comply with the Delaney clause in section 409 of the FFDCA. The Delaney clause prohibits the establishment of a food additive regulation "if it is found * * * to induce cancer in man or animal," 15 U.S.C. 348(c)(3)(A). The Delaney clause is not applicable to the petition submitted by Sumitomo since it involves establishing a tolerance on the raw agricultural commodity grapes under section 408 of the FFDCA. Approval of a section 408 tolerance on grapes would legalize residues of procymidone on the processed food wine because procymodine does not concentrate in wine. See 15 U.S.C. 342(a)(2)(C). However, if EPA determines that procymidone is a carcinogen, and if in assessing the risk posed by residues of procymidone on both grapes and wine EPA finds the risk unacceptable, EPA may consider whether a section 409 food additive regulation covering only procymidone residues in wine should be established. Once EPA shifts from section 408 to section 409, the Delaney clause would govern any decision on procymidone. EPA could not approve a food additive regulation for procymidone unless the cancer risk of procymidone on wine fell within the *de minimis* exception to the Delaney clause. See the **Federal Register** of October 19, 1988 (53 FR 41104).

VII. Conclusion

As noted, EPA is considering proposing an interim tolerance for procymidone the summer of 1991. No proposal will be made, however, unless EPA can determine that establishment of a procymidone tolerance will conform to statutory requirements. At this time, EPA solicits comments on its planned course of action, its preliminary risk assessment, and the more general policy issues discussed in this notice. EPA will also closely consider all comments received on this advanced notice of proposed rulemaking in deciding on whether to issue a proposal.

Dated: September 18, 1990.

Linda J. Fisher,

Assistant Administrator, Office of Pesiticides and Toxic Substances.

[FR Doc. 90–22706 Filed 9–24–90; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 300

[SW–FRL–3834–5]

National Oil and Hazardous Substances Contingency Plan; the National Priorities List; Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete a site form the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) announces its intent to delete the Union Scrap Iron and Metal Co. site from the National Priorities List (NPL) and requests public comment. As specified in Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), it has been determined that all appropriate Fund-financed responses under CERCLA have been implemented. EPA, in consultation with the State of Minnesota, has determined that no further cleanup is appropriate. Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future conditions warrant such action, however. The purpose of this notice is to request public comment on the intent of EPA to delete the Union Scrap Iron and Metal Co. site from the NPL.

DATES: Comments concerning the proposed deletion of the site from the NPL may be submitted until October 25, 1990.

ADDRESSES: Comments may be mailed to James Van der Kloot (5HS–11), Remedial Project Manager, Office of Superfund, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, IL 60604. The comprehensive information on the site is available at the local information respository located at the

Minnesota Pollution Control Agency, 520 Lafayette Street, St Paul, MN 55155. Requests for comprehensive copies of documents should be directed formally to the appropriate Regional Docket Office. The address for the Regional Docket Office is C. Freeman (5HS–12), Region V, U.S. EPA, 230 South Dearborn Street, Chicago, IL 60604, (312) 886–6214.

FOR FURTHER INFORMATION CONTACT: James Van der Kloot (5HS–11), U.S. EPA, Region V, Office of Superfund, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–9309; or Gina Weber (5PA–14), Office of Public Affairs, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6128.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The U.S. Environmental Protection Agency (EPA) announces its intent to delete the Union Scrap Iron and Metal site from the National Priorities List (NPL), Appendix B, of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR part 300 (NCP), and requests comments on the deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment, and maintains the NPL, as the list of those sites. Sites on the NPL may be the subject of Superfund (Fund) Fund-financed remedial actions. Any site deleted from the NPL remains eligible for additional Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action.

The EPA will accept comments on this proposal for 30 days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and explains how the site meets the deletion criteria.

II. NPL Deletion Criteria

The 1985 amendments to the NCP established the criteria the Agency uses to delete sites from the NPL. 40 CFR 300.66(c)(7), provide that sites "may be deleted or recategorized on the NPL where no further response is appropriate." In making this decision. EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA have been implemented, and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate.

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Prior to deciding to delete a site from the NPL, EPA must determine that the remedy, or existing site conditions at sites where no action is required, is protective of public health, welfare, and the environment.

Deletion of a site from the NPL does not preclude eligibility for subsequent additional Fund-financed actions if future site conditions warrant such actions. Section 300.68(c)(8) of the NCP states that Fund-financed actions may be taken at sites that have been deleted from the NPL.

Deletion of sites from the NPL does not itself create, alter or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

III. Deletion Procedures

Upon determination that at least one of the criteria described in section 300.66(c)(7) has been met, EPA may formally begin deletion procedures. The first steps are the preparation of a Superfund Close Out Report and the establishment of the local information repository and the Regional deletion docket. These actions have been completed. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the site, announce the initiation of a 30-day public comment period. The public is asked to comment on EPA's intention to delete the site from the NPL; all critical documents needed to evaluate EPA's decision are generally included in the information repository and deletion docket.

Upon completion of the public comment period, the EPA Regional Office will prepare a Responsiveness Summary to evaluate and address concerns which were raised. The public is welcome to contact the EPA Regional Office to obtain a copy of this responsiveness summary, when available. If EPA still determines that deletion from the NPL is appropriate, a final notice of deletion will be published in the **Federal Register**. However, it is not until the next official NPL rulemaking that the site would be actually deleted.

IV. Basis for Proposed Site Deletion

The following summary provides the Agency's rationale for deleting the Site from the NPL.

The Union Scrap Iron and Metal Co. site (the Site) is located at 1608 Washington Avenue North, in Minneapolis, Minnesota. The Site has an area of approximately ¼ acre. The Union Scrap Iron and Metal Company owned and operated a scrap metal and battery casing processing facility at the Site from approximately 1972 until 1983. The company filed for bankruptcy in 1985. As a result of these operations, the Site became contaminated with lead, PCBs and battery acid.

Beginning in 1979, a series of studies were conducted at the Site to determine the nature and extent of the environmental contamination. These studies indicated that the Site soils were highly contaminated with lead, PCBs and sulfate. The Site was placed on the National Priorities List in Spetember, 1984 due to the presence of contaminated waste materials and soil on the Site. In 1985, a Site Assessment was performed by U.S. EPA.

Beginning in 1985, a series of response actions were taken at the Site: a security fence was constructed and the waste piles were stabilized with tarpaulins. In 1986 and 1987, a potentially responsible party (PRP), under the supervision of the U.S. EPA, removed approximately 773 tons of battery casing material from the Site.

In 1988, the U.S. EPA removed approximately 3,000 tons of contaminated materials from the Site. This included scrap materials, a cement pad, and the upper one to three feet of soil. Clean backfill materials were brought in, and used to bring the Site surface back up to grade.

A Remedial Investigaion was conducted at the Site during 1989 under the lead of the Minnesota Pollution Control Agency. Field data was collected to determine the concentrations of contaminants remaining in Site soils, and to determine whether the Site is a source of contamination of the groundwater. No Site-related contaminants were found in the Site soils or in the groundwater at levels which exceed the Applicable or Relevant and Appropriate Requirements (ARARs) or health-based levels.

Therefore, the conclusion of the site-specific Remedial Investigation and Risk Assessment was that the Site does not pose a current or potential threat to human helath or the environment.

On March 30, 1990, the Regional Administrator of U.S. EPA Region V approved a Record of Decision which selected the No Action alternative as the remedy for the Union Scrap Iron and Metal Co. Site. This No Action remedy includes no further limitation of Site use, and no further monitoring or maintenance whatsoever. Therefore, no 5-year review of the selected remedy under section 121(c) of CERCLA will be required.

The EPA, with the concurrence of the Minnesota Pollution Control Agency, has determined that all appropriate responses under CERCLA at the Union Scrap Iron and Metal Co. Site have been completed.

Dated: September 18, 1990.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 90–22705 Filed 9–24–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

46 CFR Parts 580 and 581

[Docket No. 90–25]

Publication and Filing of Payments Made by Common Carriers to Foreign Freight Forwarders and Ocean Freight Brokers in Tariffs and Service Contracts

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission ("Commission" or "FMC") proposes to amend its foreign tariff filing regulations to require common carriers and conferences to state in their tariffs the amount of payments made, and a description of services for which any payments are made, to foreign freight forwarders of ocean freight brokers. The Proposed Rule defines foreign freight forwarders and ocean freight brokers. The Proposed Rule also amends the FMC's service contract filing regulations to require common carriers and conferences to state in service contracts the amount of payments made, and a description of services for which any payments are made, to foreign freight forwarders or ocean freight brokers. The Proposed Rule will require public disclosure of any payments made by common carriers for services provided by foreign frieght forwarders and ocean freight brokers. the proposal is intended to facilitate enforcement efforts to detect and prevent unlawful activity related to such payments.

DATES: Comments due November 24, 1990.

ADDRESSES: Comments (Original and 15 copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573–0001, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Austin L. Schmitt, Director, Bureau of Trade Monitoring, Federal Maritime Commission, 1100 L Street NW., Washington DC 20573–0001, (202) 523–5787.

SUPPLEMENTARY INFORMATION: The interrelationship of carriers and conferences and so-called "intermediaries" poses significant enforcement problems for the Commission and possible disruption in the industry. In many foreign countries such intermediaries are referred to as "freight forwarders" of "freight brokers." Their functions often go beyond those of licensed United Stated ocean freight forwarders. Some of these firms are conglomerates consisting of carriers, warehouse companies, trucking companies, etc. Commercial sources, particularly foreign ones, may refer to any and all of these entities as either "foreign freight forwarders" or "brokers". In comparision with FMC-licensed ocean freight forwarders, these intermediaries may have greater influence in determining the selection of a carrier, the selection of the providers of ancillary services, and the terms of the movement.[1]

The variety of activities and the lack of common terminology can obscure what services these intermediaries perform and for what services they are being paid by the carriers, i.e., for packing and warehousing, for inland transportation, for securing ocean transportation, for preparing documentation, etc. As a result, more and more intermediary entities are in a position to take advantage of this situation to pass some or all of the payments back to the shipper, directly or indirectly.

Sections 8(a)(1)(C) and 19(d)(3) of the 1984 Act, 46 U.S.C. app. 1707(a)(1)(C) and 1718(d)(3), require carriers and conferences to set forth in their tariffs the rate or rates of compensation to be paid to licensed ocean freight forwarders on United States export shipments; FMC Tariff Rule No. 9, 46 CFR 580.5(d)(9), implements this requirement. There is, however, no express statutory requirement that carriers and conferences describe in their respective tariffs or service contracts compensation paid to "intermediary" entities that are not statutorily defined––e.g., forwarders on import shipments. Because the present tariff and service contract filing requirements apply only to licensed ocean freight forwarders, who operate only in the United States export trades, and do not cover common carrier and conference activities involving intermediaries operating in the United States import trades,[2] uncertainly exists concerning the responsibility of carriers and conferences to publish in their tariffs and service contracts the amount of payments to be made to such intermediaries. In order to ensure that it has the means to ascertain the extent and legality of such payments, the Commission has determined to impose these requirements by rule under the authority set forth below.

Section 8(a)1) of the 1984 Act requires, inter alia, that carriers and conferences shall "* * * file with the Commission * * * tariffs showing all * * * practices * * * that have been established * * *." Furthermore, section 10(b)(2) of the 1984 Act, 46 U.S.C. app. 1709(b)(2), makes it unlawful for a "common carrier, either alone or in

[1] The terms "freight brokers" and "brokerage" are subject to varying interpretations. The FMC's rules at 46 CFR 510.2(m) define an ocean freight broker as a person who matches up cargo with available cargo space and who receives from the carrier a sum of money for that service (defined as "brokerage"). The industry often uses the term "broker" in the widest possible sense, meaning a party acting on behalf of another party, almost with the meaning of "agent". The industry also often uses "broker" to distinguish between those persons who arrange for booking cargo and who provide documentation service on outbound ocean shipment (defined in the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1701, and by the Commissions as "ocean freight forwarders") and those who do parallel work on inbound shipments (i.e., persons currently defined neither by the 1984 Act, not by regulations issued by the Commission). This latter type of "broker" is usually foreign based, often has connections to foreign firms (including shippers and consignees) and provides a broader spectrum of services, including intermodal links, than an "ocean freight forwarder" as defined by the Commission. The situation is made more complex by the use of the term "brokerage" to describe what the Commission defines as "compensation" (i.e., payment by carriers to FMC licensed forwarders for services performed on outbound shipments) (46 CFR 510.2(d)).

[2] Section 3(19) of the 1984 Act, 46 U.S.C. app. 1702(19), defines an ocean freight forwarder as a person that dispatches shipments from the United States via common carriers, books space for those shipments and processes the documents incident to those shipments. Section 19 of the 1984 Act, 46 U.S.C. app. 1718, requires that persons who perform ocean freight forwarding functions obtain a license from the Commission and that only they are entitled to compensation from the carriers.